



1410-72-P

**LIBRARY OF CONGRESS**

**Copyright Royalty Board**

**Notice of Intent to Audit**

**[Docket No. 16-0004-CRB-AU]**

**AGENCY:** Copyright Royalty Board, Library of Congress.

**ACTION:** Public notice.

---

**SUMMARY:** The Copyright Royalty Judges announce receipt of two notices of intent to audit the 2012, 2013, and 2014 statements of account submitted by DMX and Muzak LLC concerning the royalty payments their Business Establishment Services made pursuant to two statutory licenses.

**FOR FURTHER INFORMATION CONTACT:** LaKeshia Keys, Program Specialist, by telephone at (202) 707-7658 or by email at [crb@loc.gov](mailto:crb@loc.gov).

**SUPPLEMENTARY INFORMATION:** The Copyright Act, title 17 of the United States Code, grants to copyright owners of sound recordings the exclusive right to publicly perform sound recordings by means of certain digital audio transmissions, subject to certain limitations. Specifically, the right is limited by an exception that allows noninteractive public performances by means of a digital audio transmission that are part of a transmission to a business establishment for use in the ordinary course of its business. 17 U.S.C. 114(d)(1)(C)(iv). In addition, a statutory license in section 112 allows a service to make necessary ephemeral reproductions to facilitate the digital transmission of the sound recording, including the ephemeral recordings made by entities that transmit performances of sound recordings to business establishments (Business Establishment Services)<sup>1</sup>. 17 U.S.C. 112(e).

---

<sup>1</sup> Subject to the limitations set forth in section 114(d)(1)(C)(iv).

Licensees may operate under this license provided they pay the royalty fees and comply with the terms set by the Copyright Royalty Judges. The rates and terms for the section 112 license for Business Establishment Services is set forth in 37 CFR part 384. As part of the terms set for this license, the Judges designated SoundExchange, Inc. as the Collective, *i.e.*, the organization charged with collecting the royalty payments and statements of account submitted by Business Establishment Services and with distributing the royalties to the copyright owners and performers entitled to receive them. 37 CFR 384.4(b). As the designated Collective, SoundExchange may conduct a single audit of a licensee for any calendar year in order to verify royalty payments. SoundExchange must first file with the Judges a notice of intent to audit a licensee and serve the notice on the licensee. 37 CFR 384.6(c).

On December 23, 2015, SoundExchange filed with the Judges a notice of intent to audit the Business Establishment Services of DMX and Muzak LLC for the years 2012, 2013, and 2014.

Section 384.6(c) requires the Judges to publish notice in the **Federal Register** within 30 days of receipt of a notice announcing the Collective's intent to conduct an audit. Today's notice fulfills this requirement with respect to SoundExchange's December 23, 2015, notices of intent to audit.

Dated: January 19, 2016

---

Suzanne M. Barnett,  
Chief Copyright Royalty Judge.

[FR Doc. 2016-01299 Filed: 1/21/2016 8:45 am; Publication Date: 1/22/2016]